

Jury Trial - Volume 6 - 10/18/2024

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 05-81165

KHAOPHONE SYCHANTHA,

Defendant.

_____/

JURY TRIAL - VOLUME 6
BEFORE THE HONORABLE SEAN F. COX
United States District Judge
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan
Friday, October 18, 2024

APPEARANCES:

FOR THE PLAINTIFF:

JASON DORVAL NORWOOD
THOMAS PATRICK MARTIN
United States Attorney's Office
211 W. Fort Street
Suite 2001
Detroit, Michigan 48226
313.226.9587
313.226.9168

FOR THE DEFENDANT:

KHAOPHONE SYCHANTHA
IN PRO PER
DAVID S. STEINGOLD
(STANDBY COUNSEL)
Law Offices of David S. Steingold, PLLC
30300 Northwestern Highway, Suite 111
Farmington Hills, Michigan 48334
313.962.0000

1 **APPEARANCES CONTINUED:**

2

3 **ALSO PRESENT:** Special Agent Brian Manns
4 Yannick Andrus - Government Assistant
5 Marissa Mandernach - Defense Assistant

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- - -
To obtain a certified transcript, contact:
April A. Kurtz, CSR-7347, RPR, FCRR
www.transcriptorders.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TABLE OF CONTENTS

<u>MATTER</u>	<u>PAGE</u>
Jury Trial - (Volume 6)	3
Closing Argument by Mr. Norwood.....	6
Closing Argument by Defendant Sychantha.....	19
Closing Argument Rebuttal by Mr. Norwood.....	21
Jury Instructions.....	22
Jury Verdict.....	36
Certificate of Reporter.....	43

1 Detroit, Michigan

2 Friday, October 18, 2024

3 9:03 a.m.

4 * * *

5 THE CLERK: All rise.

6 The United States District Court for the Eastern
7 District of Michigan is in session. The Honorable Sean Cox
8 presiding.

9 You may be seated.

10 The Court calls Case Number 05-81165, United States
11 of America versus Sychantha, et al.

12 Counsel, can I have appearances, please?

13 MR. NORWOOD: Good morning, your Honor. Jason
14 Norwood on behalf of the United States.

15 THE COURT: Good morning.

16 MR. MARTIN: Good morning, your Honor. Patrick
17 Martin on behalf of the United States.

18 THE COURT: Good morning.

19 DEFENDANT SYCHANTHA: Good morning, your Honor.
20 Khaophone Sychantha.

21 MR. STEINGOLD: Good morning, your Honor. David
22 Steingold, advisory counsel for Mr. Sychantha.

23 THE COURT: Good morning. Please have a seat.

24 Who is giving close on behalf of the Government?

25 MR. NORWOOD: I am, your Honor.

1 THE COURT: And how much time do you need for your
2 closing and then your rebuttal?

3 MR. NORWOOD: Approximately, 25, 30 minutes. And
4 then for the rebuttal, 5 to 10 minutes.

5 THE COURT: Mr. Sychantha, how much time do you need
6 to close?

7 DEFENDANT SYCHANTHA: I'm ready.

8 THE COURT: Yeah, I know. How much time?

9 DEFENDANT SYCHANTHA: About 5, 10 minutes.

10 THE COURT: Okay. Are we ready for the jury?

11 MR. NORWOOD: Yes, your Honor.

12 THE CLERK: All rise for the jury.

13 (JURY IN AT 9:05 a.m.)

14 THE CLERK: Please be seated.

15 THE COURT: Members of the jury, good morning.

16 JUROR: Good morning.

17 THE COURT: In a moment, we're going to start with
18 closing arguments. On your seats, as you can see, I redid
19 pages 45, 46, 47, and created a 47A, okay, and so that's the
20 attachment that you have on your seats right now.

21 And if I recall correctly, I stopped at page 38 of
22 the jury instructions when we broke yesterday. And after
23 closing arguments, I will read 39 through 50 of the jury
24 instructions to you, okay?

25 Everyone got it so far?

1 JURORS: Yes.

2 THE COURT: And in a moment, Mr. Norwood, on behalf
3 of the Government, is going to give Government's closing
4 argument. Again, in the closing arguments, the attorneys and
5 the defendant tell you what they believe the evidence in this
6 case has shown. And again, since the Government has the burden
7 of proof, the law allows the Government a rebuttal argument to
8 the defendant's closing argument, okay?

9 Everyone got it?

10 JURORS: Yes.

11 THE COURT: All right. You may proceed.

12 MR. NORWOOD: Thank you, your Honor.

13 Good morning, Mr. Sychantha. Good morning to the
14 jury.

15 Over the course of the last several days, the
16 Government has presented evidence of drug trafficking
17 activities of the defendant, also known as Cal, Khao and
18 Khaopong, between 2003 and 2011. Each of these periods could
19 be characterized as chapters of the story, detailing the
20 defendant's operations. Those chapters include: Chapter 1, A
21 Background Into a Smuggling Operation; Chapter 2, Moving
22 Marijuana; Chapter 3, One and Done, A Deal for Pills; Chapter
23 4, Co-Workers and Co-Conspirators; Chapter 5, A Heavy Load
24 Headed to Detroit; and Chapter 6, A Friend and Partner in
25 Crime.

1 Let's walk through each one.

2 In Chapter 1, A Background into a Smuggling
3 Operation, the Government provided testimony from Agent
4 Christensen. He testified that leaders would recruit couriers
5 that were often young, and students, due to their frequency of
6 crossing the border. He also testified that they would start
7 with smaller responsibilities. But, over time, after they
8 gained the confidence of the leaders, their loads would
9 increase.

10 And he testified about dirty pills. And he said that
11 they were dirty because they often included more than one
12 illegal controlled substance. And he testified about the
13 retail value of these dirty pills, approximately 15 to \$20.
14 And when asked a question about a hypothetical question of
15 100,000 pills in a load, he said it would be worth 1.5 million
16 dollars.

17 He also testified about bulk cash that's associated
18 with these deals and how that would cross the U.S./Canadian
19 border. And he testified about the type of vehicles that would
20 be used, because they had specific areas in their panels and in
21 their front bumpers to fit the sizable load.

22 And finally, he testified that leaders don't cross
23 the border themselves, their couriers do, in order to protect
24 their identity.

25 In Chapter 2, Moving Marijuana, the Government

1 presented testimony from Tammy Thompson. Tammy testified that
2 she would cross over the border to Windsor to meet the
3 defendant and that she would go two to four times a month to
4 get heavy loads of marijuana until February 3rd, 2004, when she
5 was caught by law enforcement attempting to cross the border.

6 She testified that, on that day, she was stopped by
7 law enforcement and they found over eight pounds of marijuana
8 in her vehicle that was the defendant's.

9 And then you heard from Inspector Vaughn, who
10 testified as part of the seizure team. And Tammy identified
11 the defendant in court.

12 In Chapter 3, One and Done, A Deal for Pills, the
13 Government presented testimony from Asad Malik. He testified
14 that he would receive marijuana from the defendant and that he
15 would go and he would speak to the defendant on the phone, and
16 the defendant would send somebody to him, and he would deliver
17 this marijuana that he would sell for redistribution in the
18 Detroit metropolitan area for thousands of dollars per pound.

19 But, on the last deal, he ordered 5,000 dirty pills,
20 and the defendant had that delivered to him, and he was caught
21 on May the 26th, 2005, by law enforcement. And at that time,
22 he agreed to cooperate. And as a part of his cooperation, he
23 agreed to make recorded phone calls with the defendant.

24 And here's a picture of some of those 5,000 dirty
25 pills.

1 During his testimony, he identified the defendant by
2 face and by voice in the recordings that we played in court.

3 And Agent Manns testified about seizing these 5,000
4 dirty pills and how he reported the phone calls between the
5 defendant and Asad Malik, including this one.

6 (Phone call played at 9:12 a.m.)

7 MR. NORWOOD: Through this recording, the defendant
8 told you a few things. He told you that he sent this
9 individual as a daily thing, a weekly thing, to bring his
10 pills, his dirty pills, and drugs across the U.S./Canadian
11 border. He also distinguished, through his words, the other
12 ones, implying that there was another thing that was delivered
13 that time, to Asad Malik that he was caught with. And he also
14 mentioned trees, referring to marijuana, as Asad Malik told
15 you.

16 When Asad was talking to him, he vouched for this
17 individual, saying she went there okay. She went there okay,
18 because he had sent her, and he confirmed that on this
19 recording.

20 In Chapter 4, Co-Workers and Co-Conspirators, you
21 heard from a group of individuals that worked together at
22 Bahama Breeze together, and they also worked as couriers for
23 the defendant.

24 First, you heard from Ron Quizon, who met the
25 defendant through his girlfriend's brother. He testified that

1 the defendant told him to deliver his money from his proceeds
2 of sales that he had in Detroit. And so Ron would cross the
3 border with ten thousands of his dollars and he would deliver
4 them to the defendant. And Ron also testified that he allowed
5 the defendant to use his garage to store these dirty pills.

6 And so the defendant would call him and then they
7 would show up with these pills in large Ziploc bags. And he
8 helped them unload these pills out of the vehicles on several
9 occasions. And he testified that there were thousands of pills
10 at a time.

11 And in June 2008, while attempting to cross the
12 border to give the defendant his money, he was caught with over
13 10,000 of the defendant's money. Ron, during his testimony,
14 identified the defendant in court. He also identified John
15 Tetreau and Mamie Arterberry. He said that this individual
16 came to his house four to five times and gave him the
17 defendant's money for him to deliver.

18 Next, you heard from John Tetreau. Ron said that he
19 met this individual at work. And he introduced him to the
20 defendant. And John embraced that role in working for the
21 defendant, transporting thousands of pills and thousands of
22 dollars across the U.S./Canadian border.

23 John testified that Richard and Mamie Arterberry ran
24 the central hub of the defendant's operation in Detroit and
25 that he frequently worked with them in order to fulfill the

1 defendant's operation.

2 He also testified that he introduced his childhood
3 friend, Loren Pennington Oman, to the defendant, and that he
4 purchased a car for her that had specific areas in it, in its
5 panels and in its bumper to fit these pills, and that she had
6 to work this car off. That's what she told you. She had to
7 work this car off in order to work for the defendant so that
8 she had a place -- a car to drive.

9 And Loren testified that she would go to the
10 defendant's house, the defendant would tell her what to do, and
11 Dave and Khao would always be at every location, whether it was
12 at the house that he had in Windsor on Grandview or if it was
13 at the other house. Cal and Dave were always the constants
14 that were there. And the defendant would tell her what to do
15 and give her spending money as compensation for what she was
16 doing. And that was until October the 24th of 2008, when she
17 was caught at the border with over nine pounds of the
18 defendant's marijuana.

19 And at that point, she was caught and she agreed to
20 work with law enforcement. And so she agreed to wear a wire.
21 And she met with John Tetreau, and they had this conversation
22 on November the 3rd.

23 (Phone call played at 9:17 a.m.)

24 MR. NORWOOD: In this recording, you can hear talking
25 Loren talking about Cal and Dave, Cal and Dave multiple times.

1 And she testified that Cal was the defendant, the individual
2 who was leading the operation, in her view, based on all the
3 interactions she had with him.

4 And that was consistent with what John said. John
5 said Cal and Dave would work together and that Dave was the
6 mechanic who would put the drugs in the car and Cal was the one
7 who was giving the orders.

8 You also heard from Officer Wolentarski, who was a
9 part of the seizure team, on October 4th, 2008.

10 And you heard from Officer Oakley, who testified
11 about a couple of incidents. He testified about the seizure of
12 marijuana from Loren and Jacob. And then he also testified
13 about the January 24th pickup of 30,000 of these dirty pills.
14 Loren and Jacob testified that they received these pills from
15 the defendant and there was a recipient in Boston that they
16 were supposed to take them to. And so Loren worked with law
17 enforcement and was watched as a control delivery to deliver
18 these pills to this individual in Boston.

19 And Officer Oakley was involved in that as well.

20 On January 24th, 2009, law enforcement seized these
21 pills that were delivered and ordered by the defendant. And
22 there were 30,000 pills packed into this Huggies box.

23 And then Officer Koch testified that he was on the
24 transport team for Loren and her boyfriend Jacob to take them
25 to Boston to execute this control operation, which was

1 successful. And in Boston, the alleged recipient, the intended
2 recipient, was caught.

3 During Loren's testimony, she identified the
4 defendant, she identified David Sok, and she identified John
5 Tetreau, her childhood friend. And John identified the
6 defendant, David Sok, Ron Quizon, Mamie Arterberry, Richard
7 Arterberry and Loren.

8 In Chapter 5, A Heavy Load Headed to Detroit, the
9 Government presented testimony from Donte Shavers. He told you
10 that Mamie Arterberry was his cousin, and that Mamie introduced
11 him to the defendant, and the defendant asked him if he wanted
12 to make some money. And he agreed to do so.

13 And so Donte Shavers worked with the defendant. And
14 on his first load, because of the relationship he had with
15 Mamie and Richard, he had about 30 to 50,000 pills. And he
16 said that he would go to the defendant's house every time.
17 Dave would load the vehicle in the panels and in the other
18 parts of the vehicle and he would bring it across the border to
19 his uncle, Richard Arterberry, and then they would unload the
20 vehicle themselves for redistribution throughout the Detroit
21 Metropolitan area.

22 And on December the 18th of 2008, while attempting to
23 cross the border, Donte Shavers was stopped, and he was stopped
24 with over 100,000 of the defendant's dirty pills.

25 The first picture on the top shows the pills that are

1 lined up in the panels of the vehicle and then the bottom two
2 pictures show the significant weight of this heavy load.

3 And Officer Wolentarski also testified about his role
4 in seizing these 100,000 pills.

5 Inspector Bertram testified. He testified that he
6 saw the defendant's vehicle and Shavers' vehicle together in
7 Canada before Donte Shavers crossed the border.

8 During his testimony, he identified the defendant,
9 David Sok, his cousin, Mamie Arterberry, and his uncle, Richard
10 Arterberry.

11 In Chapter 6, A Friend and Partner in Crime, through
12 the testimony of Donte Shavers, Loren Pennington Oman and John
13 Tetreau, they identified Dave, several times, saying that he
14 was the right-hand man of Cal. John and Donte described his
15 role as a mechanic in taking off the tires and the tire wells
16 and the panels and loading these vehicles every time for the
17 defendant.

18 The final chapter of the defendant's drug trafficking
19 operation is "This Trial." In this -- in this timeline, it
20 shows the significant loads and weights that the defendant was
21 involved in. The February 2003 -- February 3rd, 2004, seizure
22 of marijuana from Tammy Thompson, the seizure of 5,000 dirty
23 pills from Asad Malik and the phone calls where the defendant
24 tells you about his operation. Ron Quizon, who is there on the
25 bottom, who was caught with over \$10,000 of the defendant's

1 money, the Oman seizure of marijuana, over nine pounds of
2 marijuana on October the 24th, 2008, the pill pickup of those
3 30,000 dirty pills on January 26th, 2009, and the Donte seizure
4 of over 100,000 dirty pills on December 18th, 2008.

5 John Tetreau, Donte Shavers, Loren Pennington Oman,
6 Ron Quizon, Tammy Thompson and Asad Malik, all described the
7 defendant as the point person, the person who led and told
8 people what to do when they were there, the person who would
9 send individuals across the border, the person that they would
10 meet with to give him his money, the person who would fill the
11 cars by telling individuals what to do. Every single one of
12 those individuals said that the defendant, Khaophone Sychantha,
13 whether it was by Khao, Khaopong or Cal, was the individual who
14 was running the operation, placing him at the top of the
15 hierarchy.

16 So let's look at the counts for a moment. And I know
17 there's a lot of words here, but we're going to walk through
18 each part, and this is just a portion.

19 First, that beginning on or about May the 3rd, 2003,
20 and continuing throughout on or about January of 2011, the
21 defendant, together with others known and unknown, did
22 knowingly, intentionally and unlawfully combine, conspire,
23 confederate and agree to possess with the intent to distribute
24 controlled substances.

25 And there's four controlled substances here. Well,

1 three, but we'll talk about the distinctions in a moment.

2 The first one is a substance containing a detectable
3 amount of Benzylpiperazine, also known as BZP.

4 The second is 500 grams or more of a detectable
5 amount of methamphetamine, and then there's five grams or more
6 of methamphetamine.

7 And we'll talk about the distinctions between those
8 two in a second.

9 And then a substance containing a detectable amount
10 of methylenedioxymethamphetamine, also known as MDMA and
11 ecstasy.

12 And second, the defendant knowingly and voluntarily
13 joined the conspiracy.

14 Now, looking at this drug chart, what we have is,
15 aside Malik's seizure, 5,000 pills. And you heard from the --
16 you heard from Carrie Gallagher, who is a forensic chemist.
17 And she told you -- Dr. Gallagher told you that she tested
18 these pills and what she found was MDMA and meth in all of
19 these pills that she tested and what the quantities were -- and
20 I'll do the math in a moment, was 120, 15.8 and 365.4. That's
21 the entire weight.

22 So, all of that, a detectable amount -- of an amount
23 containing a detectable amount of methamphetamine, you look at
24 all the quantity. You look at all the quantity to determine
25 that.

1 And in that second column that's circled here, you
2 see the pure weight of methamphetamine. And in the ones that
3 she tested, it was 4.2, .38 and 10.2. So that's the pure
4 weight. But that first column is the amount, the detectable
5 amount that contains meth.

6 And then you look down to the 100,000, Donte Shavers'
7 seizure with the defendant. And it talks about
8 Benzylpiperazine.

9 And this adds up the numbers on this slide.

10 And so when you look at it, you have 501.5 grams of a
11 substance containing methamphetamine and MDMA, but about 14.7
12 grams of pure methamphetamine. And that's the distinction that
13 is in Count One in that jury instruction.

14 And then you have December 18th, 2008, that has
15 2,427.5 grams of a substance containing BZP and then 620.8
16 grams containing MDMA. And that was tested by Forensic Chemist
17 Heather Miller.

18 And then you have the Boston controlled operation,
19 those 30,000 dirty pills, and those contained 1,858.5 grams of
20 a substance that had MDMA, meth and BZP. The entire sub- --
21 the entire amount of the substance contained all of those
22 things: Methamphetamine, MDMA and BZP. And then that pure
23 amount is 19.6 grams of pure methamphetamine.

24 And then Count Two, this deals with the Donte
25 Shavers' seizure of 100,000 pills. First, on or about December

1 18th, 2008, the defendant knowingly possessed a controlled
2 substance, specifically BZP, and there's no quantity. That's
3 for that. That's just a substance containing BZP. And then a
4 substance containing MDMA. No quantity specified there either.

5 And second, the defendant intended to distribute
6 these controlled substances.

7 And then Count Three is identical to Count Two, but
8 it deals with the Boston controlled operation. And it talks
9 about, first, on or about January 26, 2009, the defendant
10 knowingly possessed a controlled substance specifically, and
11 all four are listed here: BZP, no quantity specified, 500
12 grams or more of a substance containing methamphetamine, five
13 grams or more of methamphetamine, that pure amount that we were
14 talking about, and then a substance containing MDMA. No amount
15 required for that, but there needs to be the substance found.

16 And second, the defendant intended to distribute
17 these controlled substances. And that's the total amount with
18 meth, MDMA and BZP again, and then the pure amount.

19 So how does this story end?

20 Over the course of this trial, the Government has
21 presented testimony from several individuals who worked for the
22 defendant to further his cause. The Government also presented
23 testimony from several individuals in law enforcement that
24 worked for years to uncover his operation. For eight years,
25 the defendant worked. And there was also those recordings with

1 Asad Malik, where the defendant told you how he ran his scheme.
2 In his own voice, he told you.

3 And so, at this point, at the end of the chapters of
4 the story of the defendant, it's now your decision to make.

5 His cause, his operation, his voice, his scheme.

6 And based on the evidence presented in this trial,
7 the Government asks you to take a look at that, take a look at
8 it, and look at the individuals who testified, look at the law
9 enforcement who testified, and look at the evidence that's
10 before you, and that you insert the final pages of the chapter
11 in your verdict forms, and that you find the defendant guilty
12 of Count One, conspiracy of possession with the intent to
13 distribute a controlled substance; Count Two, possession with
14 the intent to distribute a controlled substance from that Donte
15 Shavers' seizure; and Count Three, from the January 26
16 controlled operation, possession with the intent to distribute
17 controlled substances.

18 Thank you.

19 THE COURT: Sir, do you wish to give a closing
20 argument?

21 DEFENDANT SYCHANTHA: Yes.

22 THE COURT: You may proceed when you're ready.

23 DEFENDANT SYCHANTHA: Okay. The Court don't want the
24 jury to know that I was kidnapped from Canada without an
25 extradition hearing.

1 THE COURT: Okay. That's --

2 No.

3 DEFENDANT SYCHANTHA: That's my defense. That's --

4 THE COURT: No.

5 Your closing argument, with all due respect, needs to
6 deal with the evidence that the jury has seen during the course
7 of this trial, what you believe the evidence has shown to the
8 jury.

9 There's absolutely no evidence about a kidnapping.

10 DEFENDANT SYCHANTHA: The case was --

11 THE COURT: Nope, nope, nope, nope.

12 DEFENDANT SYCHANTHA: Okay. This case is 21 years
13 old. This is a violation of my due process right and my speedy
14 trial right. None of the --

15 THE COURT: Your due process and speedy trial is not
16 an issue in this case.

17 DEFENDANT SYCHANTHA: Okay. None of the witnesses
18 recall -- recall nothing about this case because the case is 21
19 years old. My Constitution right has been violated over and
20 over in this case.

21 THE COURT: I -- no constitutional rights are at
22 issue.

23 DEFENDANT SYCHANTHA: Okay.

24 And I never been in the U.S. ever in my life. That's
25 why the Government don't have extradition warrant for my

1 arrest.

2 THE COURT: Warrants, extradition, that is not an
3 issue in this case.

4 DEFENDANT SYCHANTHA: (Inaudible) Canadian citizen.

5 THE COURT: You're to disregard those remarks.

6 Did you hear what I said?

7 JURORS: Yes.

8 THE COURT: Will you do so?

9 JURORS: Yes.

10 DEFENDANT SYCHANTHA: Okay. Just -- that's it then.

11 That's it, your Honor.

12 THE COURT: Feel free to give a closing argument, but
13 it needs to be based upon the evidence presented, okay?

14 Sir, anything further?

15 DEFENDANT SYCHANTHA: No.

16 THE COURT: Rebuttal?

17 MR. NORWOOD: Your Honor, just briefly.

18 THE COURT: Remember, it needs to be within the scope
19 of the defendant's closing.

20 MR. NORWOOD: Yes, your Honor. I'll be very brief.

21 The defendant said that he had never been in the
22 United States due to these pills. But through the testimony of
23 individuals that worked with him and did his traveling for him,
24 those are the individuals that came before you and testified.

25 And so, based on those things, the defendant says

1 that he didn't come, and that's what he intended. He intended
2 those individuals to do his dirty work, to get caught, but what
3 he did not intend was those individuals to come to this trial
4 and testify about what he told them to do.

5 Thank you, your Honor.

6 THE COURT: Thank you, Mr. Norwood.

7 All right. Members of the jury, do you have your
8 jury instruction packet?

9 And please turn to page 39.

10 I read to you, yesterday, the part of the instruction
11 explaining the rules considering some of the testimony and
12 evidence. And, of course, you have heard the closing arguments
13 now of the Government and the defendant.

14 Now, let me finish up by explaining some things about
15 your deliberations in the jury room and your possible verdicts.

16 The first thing you should do in a jury room is to
17 choose someone to be your foreperson. Again, that person will
18 manage and guide your discussions and will speak for you here
19 in court.

20 Once you start deliberating, do not talk to the jury
21 officer, or to me, or to anyone else, except each other, about
22 the case.

23 If you have any questions or messages, you must write
24 them down on a piece of paper, sign them, and then give them to
25 the jury officer. The officer will give the -- will give them

1 to me and I will respond as soon as I can. I may have to talk
2 to the lawyers or the defendant about what you have asked, so
3 it may take me some time to get back to you.

4 Any questions or messages normally should be sent
5 through your foreperson to me.

6 Again, if you want to see any or all the exhibits
7 that were admitted into evidence, just send me a message and
8 those exhibits will be provided to you.

9 Page 40.

10 One more thing about messages. Do not ever write
11 down or tell anyone, including me, how your -- how you stand on
12 your votes. For example, do not write down or tell anyone that
13 you are split.

14 Your verdict, whether it is guilty or not guilty,
15 must be unanimous. To find the defendant guilty, every one of
16 you must agree that the Government has overcome the presumption
17 of innocence with evidence that proves his guilt beyond a
18 reasonable doubt.

19 To find him not guilty, everyone must -- every one of
20 you must agree that the Government has failed to convince you
21 beyond a reasonable doubt that he is guilty.

22 Either way, guilty or not guilty, your verdict must
23 be unanimous.

24 Now, once I complete with the jury instructions, you
25 go into the jury room. You are free to talk about the case in

1 the jury room. In fact, it is your duty to talk with each
2 other about the evidence and to make every reasonable effort
3 you can to reach a unanimous agreement. Talk with each other
4 and listen carefully and respectfully to each other's views.
5 And keep an open mind as you listen to what your jurors have to
6 say. Try your best to work out your differences. Do not
7 hesitate to change your mind if you are convinced that other
8 jurors are right and that your original position was wrong.
9 But do not ever change your mind just because other jurors see
10 things differently or just to get the case over with.

11 In the end, your vote must be your own -- sorry -- in
12 the end, your vote must be exactly that, your own vote.

13 It is important for you to reach unanimous agreement,
14 but only if you can do so honestly and in good conditions. No
15 one will be allowed to hear your discussions in the jury room
16 and no record will be made of what you say, so you should feel
17 to speak your minds.

18 Listen carefully to what the other jurors have to say
19 and then decide for yourself if the Government has proved the
20 defendant guilty beyond a reasonable doubt.

21 Page 43, punishment.

22 If you decide that the Government has proved the
23 defendant guilty, then it will be my job to decide what the
24 appropriate punishment should be. Deciding what the punishment
25 should be is my job, not yours. It would violate your oaths as

1 jurors to even consider the possible punishment in deciding
2 your verdict. Your job is to look at the evidence and decide
3 if the Government has proved the defendant guilty beyond a
4 reasonable doubt.

5 So what I'm going to do is I'm going to cover 45 --
6 pages 45, 46, 47, 47A at the very end of the jury instructions,
7 okay?

8 So I'm going to jump over now to page 48.

9 The verdict limited to charges against the -- this
10 defendant. Remember that the defendant is only on trial for
11 the particular crimes charged in the indictment. Your job is
12 limited to deciding whether the Government had proved that
13 crime or those crimes charged.

14 Page 49, Court has no opinion.

15 Let me finish up by repeating something that I said
16 to you earlier. Nothing I have said or done during this trial
17 was meant to influence your decision in any way. You decide
18 for yourselves if the Government has proved the defendant
19 guilty beyond a reasonable doubt.

20 Juror notes, page 50.

21 Remember that if you've elected to take notes during
22 the trial, your notes should be used only as memory aids. You
23 should not give your notes greater weight than your independent
24 recollection of the evidence. You should rely upon your own
25 independent recollection of the evidence or lack of evidence,

1 and you should not be unduly influenced by the notes of other
2 jurors. Notes are not entitled to any more weight than the
3 memory or impression of each juror. Whether you took notes or
4 not, each of you must form and express your own opinion as to
5 the facts of this case.

6 Okay. All right. Are we at the verdict form?

7 Now, juror numbers are -- so this will be the verdict
8 form that will be given to your foreperson, all right? And
9 it's page 1, page 2, page 3, page 4.

10 So I'm just going to correspond to what you have in
11 your jury instruction packet, but this is what the actual
12 verdict form will look like, okay?

13 All of you have copies of the verdict form.

14 So the three charges, three counts, right?

15 Count One is the charge -- Count One of the
16 indictment charges the defendant with conspiracy to possess
17 with intent to distribute or to distribute a controlled
18 substance.

19 Under question one, you have two options. You will
20 make one decision. Your options are not guilty or guilty.

21 Everyone understand?

22 JURORS: Yes.

23 THE COURT: Then, moving down, if you answered guilty
24 in response to question 1, proceed to question 1A.

25 If you answered not guilty in response to question 1,

1 then you will proceed to Count Two.

2 All right. Everyone got it?

3 If you answer guilty in response to question 1, you
4 will proceed to 1A.

5 If your answer is not guilty, then you jump to Count
6 One, okay?

7 Let's look at 1A.

8 Question 1A, with respect to Count One, did the
9 offense involve at least 500 grams of a substance containing a
10 detectable amount of meth?

11 Okay. You have two options. Again, yes or no. If
12 you answer yes to question 1 -- sorry, 1A, then skip question
13 1B and proceed to question 1C.

14 If you answer no to question 1A, then proceed to 1B,
15 all right?

16 And question 1B, with respect to Count One, did the
17 offense involve at least 50 -- at least 50, but not more than
18 50, grams of a detectable -- sorry, of a substance --
19 containing a detectable amount of meth?

20 Again, two options, yes or no. You make one
21 decision.

22 Everyone with me so far?

23 JURORS: Yes.

24 THE COURT: And then, again, regardless of your
25 answer, proceed to question 1C.

1 Question 1C, with respect to Count One, did the
2 offense involve at least five grams of pure meth?

3 Again, two options, one decision, yes or no.

4 Everyone good?

5 JURORS: Yes.

6 THE COURT: Count Two, with respect to the charge in
7 Count Two of the indictment, which charges the defendant with
8 possession with intent to distribute a controlled substance, we
9 find -- we, the jury, find the defendant -- again, two options,
10 one decision. It's either going to be not guilty or guilty.

11 Everyone good so far?

12 JURORS: Yes.

13 THE COURT: Then, we jump to Count Three, and that's
14 on page 3 of the foreperson's verdict form.

15 Question 3, with respect to the charge in Count Three
16 of the indictment, which charges the defendant with possession
17 with intent to distribute a controlled substance, we, the jury,
18 find the defendant either -- again, not guilty or guilty. Two
19 options, one decision.

20 And this kind of tracks again with the form as to
21 Count One.

22 Question 3A, with respect to Count Three, did the
23 offense involve at least 500 grams of a substance containing a
24 detectable amount of meth? Again, yes or no.

25 If you answer yes to question 3A, you will skip 3B

1 and proceed to question C.

2 If you answer no to 3A, then you will proceed to
3 question 3B.

4 3B, with respect to Count Three, did the offense
5 involve at least 50, but not more than 500, grams of a
6 substance containing a detectable amount of meth?

7 Again, yes or no.

8 Again, regardless of your answer, you will proceed to
9 3C.

10 With respect to Count Three, did the offense involve
11 at least five grams of pure meth?

12 Again, yes or no.

13 When you've made your decision, when you've reached
14 your verdict, your foreperson will sign it in ink, not pencil,
15 ink, and date it, and then knock on the door and give us a note
16 indicating that you have reached a verdict.

17 Everyone understand the process?

18 JURORS: Yes.

19 THE COURT: Is the Government satisfied with the
20 reading of the jury instructions, as well as the review of the
21 verdict form?

22 MR. NORWOOD: Yes, your Honor.

23 THE COURT: Defense?

24 DEFENDANT SYCHANTHA: Yes.

25 THE COURT: Now -- oh, I forgot something.

1 Alex, hand me the packet there.

2 So, when you select your foreperson, all right? --
3 and this is a packet for the foreperson. It is the complete
4 jury instruction packet. It is an exhibit list and as well as
5 a -- as well as the verdict form, which I just reviewed with
6 you, okay?

7 So this goes to the foreperson.

8 And, right now, we are going to have only 12
9 deliberate, and we have 13. And unfortunately for Mr. Menge,
10 you're the alternate, so you won't be deliberating. Should
11 something happen during the course of the trial and one of the
12 jurors is unavailable, we will be calling you back in to
13 deliberate. But I'm going to have everybody go in a moment.

14 I'm going to have the 12 go in the jury room, start
15 deliberations, and you and I will have a chat in a little bit,
16 too, okay?

17 Okay. Mr. Furtaw and Ms. McCoy, raise your right
18 hand.

19 (Oath administered at 9:50 a.m.)

20 THE COURT: Members of the jury, you are to start
21 your deliberations. Again, after you have selected your
22 foreperson, then we will give you your notes and your jury
23 instruction packet. And again, the foreperson --

24 So the jury can start your deliberations.

25 First duty, first obligation is to select your

1 foreperson. Don't rush. Take your time. It's a very
2 important role because the foreperson manages your discussions.

3 And, of course, if you want any or all the exhibits
4 that have been admitted into evidence, just ask for them.

5 With respect to any drugs that were admitted into
6 evidence, again, a court officer will be taking them into the
7 jury room, show them to you, and then when you're done looking
8 at them, the officer will take them back out here, okay?

9 All right. You may start.

10 THE CLERK: All rise for the jury.

11 (JURY OUT AT 9:51 a.m.)

12 THE CLERK: Please be seated.

13 THE COURT: Stick around for the first 10 minutes,
14 okay?

15 So we're going to let you go, okay? Like I indicated
16 to you earlier, and it's happened during the course of my
17 career as a judge, on certainly more than one occasion where a
18 juror becomes sick or unavailable to continue to deliberate and
19 we had to bring in one of the alternates to come in and take
20 over and participate in the jury discussions.

21 So what that means is you still can't discuss the
22 case.

23 JUROR: Okay.

24 THE COURT: Okay. And what I'd ask is that at the
25 end of every day, or, actually, the beginning of every day or

1 in the morning, whatever.

2 THE CLERK: In the morning.

3 THE COURT: Why don't you give us a call at, like,
4 9:00 in the morning and ask whether or not -- you know, if the
5 jury is still deliberating. And if it is still deliberating,
6 then, obviously, you can't talk about the case. But if it's --
7 if they've reached the verdict, we'll tell you what the verdict
8 was, and then you can discuss your experience with anybody.

9 JUROR: All right. Do I call the number on your
10 card?

11 THE CLERK: Yes.

12 Do you still have that?

13 DEFENDANT SYCHANTHA: Yes.

14 THE COURT: I should know the answer to this
15 question.

16 So does he need to go to the fifth floor or not?

17 THE CLERK: He does, yes.

18 THE COURT: Okay. So go to the fifth floor, let them
19 know that the jury is deliberating and you're an alternate and
20 you're free to go, okay?

21 JUROR: Okay.

22 THE COURT: We greatly appreciate your participation.
23 I'm sure you're disappointed, because once you've sat through a
24 trial, you do want to get in and deliberate.

25 JUROR: No problem. Thank you. Have a great day.

1 THE COURT: Okay. Have a great weekend.

2 THE CLERK: Court is in recess.

3 (Off the record at 9:55 a.m.)

4 (Back on the record at 9:59 a.m.)

5 THE COURT: They have a foreperson, all right?

6 So we're going to hand them the packet, all right?

7 MR. NORWOOD: Thank you, your Honor.

8 (Off the record at 9:59 a.m.)

9 (Back on the record at 11:16 a.m.)

10 THE CLERK: The United States District Court for the
11 Eastern District of Michigan is back in session and it recalls
12 Case Number 05-81165, United States of America versus
13 Sychantha, et al.

14 THE COURT: We have a note from the jury, which I've
15 shared with everybody, that the jury is requesting Exhibits 10,
16 11, 12, 13, 14, 15 and 16, which we have pulled.

17 Of course, those exhibits are, I think, all the drugs
18 that were admitted into evidence.

19 MR. MANNS: They're a portion, your Honor.

20 THE COURT: Okay. Great.

21 And so what we're going to do, as I understand is
22 agreeable to everybody, two CSOs are going to take the drugs
23 into the jury room, allow -- wear gloves and allow the jury to
24 look at them, look at it only, all right?

25 Is that agreeable to everybody?

1 MR. NORWOOD: It is, your Honor.

2 MR. STEINGOLD: Yes, your Honor.

3 DEFENDANT SYCHANTHA: Yes.

4 THE COURT: And then when they're done, bring them
5 out, okay?

6 CSO: We'll put them in order as well.

7 THE COURT: That will be fantastic.

8 MR. STEINGOLD: Just so we're clear, they're not
9 going to be answering any questions, they're just --

10 THE COURT: Right. No.

11 If they -- any communications has to be written down
12 and given to me.

13 CSO: Yes, sir.

14 THE COURT: Thank you very much.

15 (Off the record at 11:17 a.m.)

16 (Back on the record at 11:32 a.m.)

17 THE COURT: So we have another request from the jury,
18 Exhibits 33-1, 33-2, 34, 46, 37, 37.

19 That's the rest of the remaining drugs.

20 MR. NORWOOD: The rest of the pills, your Honor, yes.

21 THE COURT: Any objection if the CSOs take those
22 exhibits back?

23 MR. NORWOOD: No objection, your Honor.

24 DEFENDANT SYCHANTHA: No.

25 THE COURT: And same procedure as the last time.

1 Thank you very much.

2 CSO: Yes. Thank you.

3 (Off the record at 11:32 a.m.)

4 (Back on the record at 12:09 p.m.)

5 THE CLERK: All rise.

6 The United States District Court for the Eastern
7 District of Michigan is in session.

8 Please be seated.

9 Court recalls Case Number 05-81165, United States of
10 America versus Khaophone Sychantha.

11 THE COURT: Your appearances, please.

12 MR. NORWOOD: Good afternoon, your Honor. Jason
13 Norwood on behalf of the United States.

14 MR. MARTIN: Good afternoon, your Honor. Patrick
15 Martin on behalf of the United States.

16 THE COURT: Good afternoon.

17 DEFENDANT SYCHANTHA: Good afternoon, your Honor.
18 Khaophone Sychantha.

19 MR. STEINGOLD: David Steingold for Mr. Sychantha.

20 THE COURT: Good afternoon.

21 Please have a seat.

22 We have received a note from the jury that they have
23 reached a verdict.

24 Is the Government ready to receive the verdict?

25 MR. NORWOOD: Yes, your Honor.

1 THE COURT: Defense?

2 DEFENDANT SYCHANTHA: Yes.

3 THE COURT: All right. Let's bring the jury out.

4 THE CLERK: All rise for the jury.

5 (JURY IN AT 12:11 p.m.)

6 THE CLERK: Please be seated.

7 THE COURT: Will the foreperson please rise?

8 Has the jury agreed upon a verdict?

9 FOREPERSON: Yes, we have.

10 THE COURT: Could you please hand the verdict form to
11 our clerk?

12 No, no. Hand the verdict form to our clerk.

13 In the matter of United States of America versus
14 Sychantha, the jury find as follows: With respect to Count
15 One, question 1, with respect to the charge in Count One of the
16 indictment, which charges the defendant with conspiracy to
17 possess with intent to distribute or to distribute a controlled
18 substance, we, the jury, find the defendant guilty.

19 Next question, if you've answered guilty in response
20 to question number 1, proceed to question 1A.

21 And I'm proceeding to 1A.

22 Question 1A, with respect to Count One, did the
23 offense involve at least 50 -- sorry, at least 500 -- 500 grams
24 of a substance containing a detectable amount of meth -- of
25 methamphetamine?

1 The jury answers that question yes.

2 Then, I'm proceeding to question C.

3 With respect to Count One, did the offense involve --
4 offense involve at least five grams of pure methamphetamine?

5 The jury answers the question as yes.

6 Count Two, question 2, with respect to the charge in
7 Count Two of the indictment, which charges the defendant with
8 possession with intent to distribute a controlled substance,
9 we, the jury, find the defendant guilty.

10 I am proceeding to Count Three.

11 Count Three, question 3, with respect to the charge
12 in Count Three of the indictment, which charges the defendant
13 with possession -- with possession with intent to distribute a
14 controlled substance, we, the jury, find the defendant, the
15 jury answers guilty.

16 I'm proceeding to question 3A.

17 With respect to Count Three, did the offense involve
18 at least 500 grams of a substance containing a detectable
19 amount of methamphetamine?

20 The jury answers the question yes.

21 Question 3C, with respect to Count Three, did the
22 offense involve at least five grams of pure methamphetamine?

23 The jury answers the question as yes.

24 That is the verdict of the jury.

25 Do either one of you wish to have the jury polled?

1 DEFENDANT SYCHANTHA: Yes.

2 THE COURT: Okay. So, members of the jury, right
3 now, you are going to be polled. And then as a whole, you're
4 going to be asked is this your verdict, okay? And then, of
5 course, you will answer. And then after that question is posed
6 to you, we will ask each one of you individually, all right?

7 Do you understand the process?

8 JURORS: Yes.

9 THE CLERK: Question number 1, the verdict form, with
10 respect to the charge in Count One of the indictment, which
11 charges the defendant with conspiracy to possess with intent to
12 distribute or to distribute a controlled substance, the jury
13 finds the defendant guilty.

14 Members of the jury, is that your verdict?

15 JURORS: Yes.

16 THE COURT: The other two questions underneath.

17 THE CLERK: Yes.

18 Question 1A, with respect to Count One, did the
19 offense involve at least 500 grams of a substance containing a
20 detectable amount of methamphetamine?

21 The verdict is yes.

22 Members of the jury, is that your verdict?

23 JURORS: Yes.

24 THE CLERK: Question 1C, with respect to Count One,
25 did the offense involve at least five grams of pure

1 methamphetamine?

2 The answer is yes.

3 Members of the jury, is that your verdict?

4 JURORS: Yes.

5 THE COURT: As to Count Two, question 2, with respect
6 to the charge of Count Two of the indictment, which charges the
7 defendant with possession with intent to distribute a
8 controlled substance, the jury finds the defendant guilty.

9 Members of the jury, is that your verdict?

10 JURORS: Yes.

11 THE CLERK: As to Count Three, question 3, with
12 respect to the charge in Count Three of the indictment, which
13 charges the defendant with possession with intent to distribute
14 a controlled substance, the jury finds the defendant guilty.

15 Members of the jury, is that your verdict?

16 JURORS: Yes.

17 THE COURT: Question 3A, with respect to Count Three,
18 did the offense involve at least 500 grams of a substance
19 containing a detectable amount of methamphetamine?

20 The answer is yes.

21 Members of the jury, is that your verdict?

22 JURORS: Yes.

23 THE COURT: Question 3C, with respect to Count Three,
24 did the offense involve at least five grams of pure
25 methamphetamine?

1 The answer is yes.

2 Members of the jury, is that your verdict?

3 JURORS: Yes.

4 THE COURT: Juror in seat number 1, as you heard the
5 verdict, was that and is that your verdict?

6 JUROR: Yes.

7 THE CLERK: Juror in seat 2, as you heard the
8 verdict, was that and is that your verdict?

9 JUROR: Yes.

10 THE CLERK: Juror in seat 3, as you heard the
11 verdict, was that and is that your verdict?

12 JUROR: Yes.

13 THE CLERK: Juror in seat 4, as you heard the
14 verdict, was that and is that your verdict?

15 JUROR: Yes.

16 THE CLERK: Juror in seat 5, was that and is that
17 your verdict?

18 JUROR: Yes.

19 THE CLERK: Juror in seat 6, as you heard the
20 verdict, was that and is that your verdict?

21 JUROR: Yes.

22 THE CLERK: Juror in seat number 8, as you heard the
23 verdict, was that and is that your verdict?

24 JUROR: Yes.

25 THE CLERK: Juror in seat nine, as you heard the

1 verdict, was that and is that your verdict?

2 JUROR: Yes.

3 THE CLERK: Juror in seat 10, as you heard the
4 verdict, was that and is that your verdict?

5 JUROR: Yes.

6 THE CLERK: Juror in seat 11, as you heard the
7 verdict, was that and is that your verdict?

8 JUROR: Yes.

9 THE CLERK: Juror in seat 12, as you heard the
10 verdict, was that and is that your verdict?

11 JUROR: Yes.

12 THE CLERK: And juror in seat 13, as you heard the
13 verdict, was that and is that your verdict?

14 JUROR: Yes.

15 THE COURT: The jury has been polled.

16 Is the Government satisfied with the polling of the
17 jury?

18 MR. NORWOOD: The Government is satisfied, your
19 Honor.

20 THE COURT: Is the --

21 DEFENDANT SYCHANTHA: Yes.

22 THE COURT: Let me finish.

23 Is the defense satisfied with the polling of the
24 jury?

25 DEFENDANT SYCHANTHA: Yes.

1 THE COURT: Members of the jury, you're excused from
2 further service with us. You paid attention. You were very
3 conscientious. You were very good to work with. You served
4 our justice system very well. And, right now, I would ask that
5 you return to the jury room and I'll be there in a moment to
6 speak with you, okay?

7 THE CLERK: All rise for the jury.

8 (JURY OUT AT 12:19 p.m.)

9 THE CLERK: Please be seated.

10 THE COURT: All right. We shall set a sentence date
11 of?

12 THE CLERK: Sentencing date is going to be February
13 the 19th at 2:00.

14 THE COURT: All right. Any other issues for today?

15 MR. NORWOOD: No, your Honor. Thank you.

16 THE COURT: Defense?

17 MR. STEINGOLD: I don't know where my representation
18 ends. I don't know if it ends today or if I'm supposed to be
19 his advisory counsel through sentencing.

20 THE COURT: It would be through sentencing.

21 MR. STEINGOLD: Okay.

22 THE COURT: Okay. Thank you.

23 Anything else?

24 MR. NORWOOD: Nothing else, your Honor. Thank you.

25 THE COURT: Anything else from the defense?

1 DEFENDANT SYCHANTHA: No, your Honor.

2 THE COURT: All right. Thank you very much.

3 MR. STEINGOLD: Thank you, your Honor.

4 THE CLERK: All rise.

5 Court is in recess.

6 (PROCEEDINGS CONCLUDED AT 12:21 p.m.)

7 * * * * *

8 C E R T I F I C A T I O N

9 I certify that the foregoing is a correct transcription
10 of the record of proceedings in the above-entitled matter.
11

12 s/ April A. Kurtz, CSR-7347, RPR, FCRR
13 April A. Kurtz, CSR-7347, RPR, FCRR
14 Official Court Reporter

10/31/2024
Date

15
16
17
18
19
20
21
22
23
24
25